

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

PATRICIA JOSE RICHTER,

Plaintiff,

v.

Civ. No. 2:21-cv-00956 MIS/GBW

TRAVEL CENTERS OF AMERICA INC.;  
TA OPERATING, LLC; and  
PETRO STOPPING CENTERS,  
LIMITED PARTNERSHIP,

Defendants.

**ORDER**


THIS MATTER is before the Court on “Stipulation of Dismissal for Punitive Damages Only” [ECF No. 59], filed December 16, 2022, by Patricia Jose Richter (“Plaintiff”). Therein, the Parties stipulate to dismissal, with prejudice, of Plaintiff’s claims for punitive damages against Defendants Travel Centers of America Inc., TA Operating LLC, and Petro Stopping Centers, Limited Partnership (“Defendants”). ECF No. 59 at 1. The Parties contend that all other claims against Defendants shall remain pending. *Id.*

A plaintiff who wishes to dismiss less than all of their claims must do so by amending their complaint pursuant to Federal Rule of Civil Procedure (“Rule”) 15(a). See *Gobbo Farms & Orchards v. Poole Chem. Co.*, 81 F.3d 122, 123 (10th Cir. 1996) (“[Plaintiff] offers no authority, and we have found none, to support its contention that [Federal Rule of Civil Procedure] 41(a) applies to dismissal of less than all claims in an action.”); *Clark v. Dewey Cnty., Oklahoma*, No. 21-CV-117, 2022 WL 17476791, at \*1 (W.D. Okla. Dec. 6, 2022); *Arroyo v. Marriott Corp.*, No. 19-CV-02483, 2020 WL 10320908, at \*2 (D. Colo. Jan. 23, 2020) (“When, as here, a plaintiff seeks to dismiss less

than all claims in an action, courts have converted the Rule 41 motion into a Motion to Amend the Complaint under Rule 15 of the Federal Rules of Civil Procedure.”), *report and recommendation adopted*, 2020 WL 10320904 (D. Colo. Feb. 14, 2020). Rule 15(a)(2) instructs the Court to “freely give leave [to amend] when justice so requires.”

Exercising its discretion, the Court construes Plaintiff's stipulation of dismissal as a joint motion under Rule 15 to amend the complaint to dismiss the claims for punitive damages against Defendants. So construed, and mindful that leave to amend should be freely given when justice so requires, the Court **GRANTS** the motion. Plaintiff may file an amended complaint within seven days of this Order, subject to the condition that the claims omitted from that amended complaint are deemed dismissed with prejudice.

**IT IS SO ORDERED.**

  
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**MARGARET STRICKLAND**  
UNITED STATES DISTRICT JUDGE